

REMARKS

Applicant's attorney wishes to express his appreciation to the Examiner for withdrawing the rejection of claims 1, 2, and 5 based on U.S. Patent 5,598,638 to Plesh after having fully considered applicant's arguments, filed April 1, 2005, and finding such arguments persuasive.

Claim 1, as well as claims 2 and 5 dependent thereon, has been amended to include an integrated electrician's measuring apparatus for marking and locating the position of electrical boxes, switches and outlets comprising an elongated body having a length of 4 feet to about 6 feet for determining horizontal placement of the outlets from one another in accordance with an applicable outlet-to-outlet standard or code. The amendment to claim 1, as well as claims 2 and 5 dependent thereon, is clearly supported by the original specification, particularly at: page 4, lines 24 – 25; and page 7, lines 9 – 11 and lines 20 – 22.

The electrician's measuring apparatus required by applicant's present claims 1, 2, and 5 includes an elongated body having a first end, a second end, a front side and a back side. The elongated body of applicant's claimed apparatus requires a length of 4 feet to about 6 feet appointed for determining horizontal placement of the outlets from one another in accordance with an applicable outlet-to-outlet standard or code. The electrician's measuring apparatus disclosed by present claims 1, 2, and 5 further comprises a plurality of slots disposed on the elongated body at a plurality of locations. Each slot of applicant's claimed invention determines placement of electrical boxes, switches and outlets in accordance with selected standards or codes so that a single electrical box, switch, or outlet may be located at different heights that are inherently unrelated. Present claims 1, 2, and 5 further provide a set of indicia on each edge of the front side of the elongated body for indicating the distance from the elongated body's first

end, and a level for leveling the length of the claimed apparatus vertically. Advantageously, the electrician's measuring apparatus called for by applicant's present claims 1, 2, and 5 readily guides the electrician in accurately and levelly positioning electrical boxes, switches and outlets at precise locations above regular and irregular floors or other surfaces (such as counters) in compliance with applicable requirements set forth by relevant construction standards and codes.

The invention, as recited by applicant's present claim 1, 2 and 5, provides an integrated electrician's measurement apparatus that can be used to vertically mount electrical boxes, switches, and outlets at different heights that are inherently unrelated and correspond to heights specified by industry standards or building codes. In addition the integrated electrician's measurement apparatus, as recited by applicant's present claims 1, 2, and 5, can be used to horizontally mount electrical boxes, switches, and especially outlets in horizontal proximity to one another in conformance with code regulations and industry standards. When vertically mounting outlets using applicant's apparatus, as defined by present claims 1, 2, and 5, an electrician can use one slot located on the electrician's measurement apparatus to mount an outlet box according to industry standards. Subsequently the electrician can use another slot located on the identical electrician's measurement apparatus to vertically mount a countertop outlet conforming to a different unrelated industry standard for countertop outlets. Moreover, applicant's claimed electrician's measurement apparatus has an elongated body that represents the code specified horizontal distance required between outlets, so that the electrician can manually rotate the device horizontally and readily mark the horizontal distance between outlets as required by industry standards.

The electrician's measurement apparatus recited by claims 1, 2, and 5, provides an

accurate mechanism that precisely locates an electrical junction box (the size and shape of which may vary considerably) at a selected distance from the floor, thereby meeting applicable code requirements and maintaining the box “in level” without necessity of additional measurement hardware when vertically mounting the box. While at the same time, the electrician’s measurement apparatus required by claims 1, 2, and 5, provides an accurate mechanism that readily locates the code required horizontal distance between outlets in a highly accurate, time efficient manner, thereby economically and reliably installing the junction boxes in accordance with applicable code requirements.

The Examiner has rejected claims 1, 2, and 5 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 2,713,203 to Gottlieb in view of U.S. Patent 5,222,303 to Jardine. The Examiner has stated that Gottlieb discloses an apparatus comprising an elongated body with first and second ends and front and back sides, wherein the first end has a width of 2 – 4 inches (substantially 4 inches). The Examiner has indicated that Gottlieb further discloses a plurality of slots disposed on the elongated body at a plurality of locations. The Examiner has stated that the plurality of slots are for determining placement of a cut line and are located at a location on the body of the apparatus that conforms to building laws and other requirements. The Examiner further elaborated that the slots are disposed such that a single electrical box may be located at different heights unrelated to each other. Additionally, the Examiner has indicated that Gottlieb teaches that the distance of the slots from the first end can be indicated on the front side by any desired indicia, and that the apparatus may have text for indicating instructions and guidelines to allow an individual using the apparatus to conform to building laws and other requirements.

The Examiner has acknowledged that Gottlieb does not disclose an apparatus having a

level for vertically leveling the apparatus. However, the Examiner has pointed to Jardine for teaching a measuring apparatus for marking and locating the position of a cut line on a wall, wherein the apparatus has levels (26, 28) thereon for properly positioning the apparatus vertically and horizontally, thereby allowing accurate marking to be drawn on a wall.

Gottlieb discloses a house framing device intended and adapted for use by individual house builders and others who may not be skilled in building. (Gottlieb, column 1, lines 15 – 19). The house framing device taught by Gottlieb comprises an elongated flat template of substantially the width of the framing member to be cut, substantially conforming to a width of 8 inch and 10 inch finished framing joists. (Gottlieb, column 6, lines 49 – 53, and column 3, lines 7 – 8, respectively). Gottlieb teaches that the overall length of the device is to be equal to the length of the longest framing member, maximum in length of about 14 feet or 16 feet (standard lengths of material). (Gottlieb, column 2, lines 65 – 67, and column 3, lines 2 – 3, respectively). At these taught widths and lengths, Gottlieb further teaches that the device comprises slot-like openings (5) and (6) that can be formed through the portions (2) and (3) (which join together to make-up the measuring strip) at any desired distances from the base measuring end of the measuring strip (1). (Gottlieb, column 3, lines 61 – 65).

The measuring strip taught by Gottlieb is merely utilized in framing, and does not have a plurality of slots located at standard or code related guidelines, and cannot be utilized for placing electrical boxes, switches and outlets but is merely used for framing. The slot-like openings in Gottlieb are utilized to mark different lengths of material of the particular stock dimension so that the different materials can be cut. (Gottlieb, column 3, lines 65 – 67). The Examiner has stated that the plurality of slots are for determining placement of a cut line and are located at a

location on the body of the apparatus *that conforms to building laws and other requirements.*

However, applicant points out that the slot-like openings (5) and (6) can be formed through the measuring strip at any desired distances from the base measuring end, these desired distances being integrally dependent on the length of each framing member and where each piece is to be installed relative to one another in erecting the frame of a building. (Gottlieb, column 3, lines 63 – 67, and column 4, lines 1 – 5, respectively). The slot-like openings in Gottlieb are not pre-selected and pre-cut based on regulatory specifications specifically tailored towards the placement of outlets, switches, and electrical boxes. Rather, the slots in Gottlieb are determined and cut by an individual “while an individual is cutting and erecting a particular framing portion.” (Gottlieb, column 2, lines 54 – 58).

Gottlieb fails to teach an electrician’s measuring apparatus, but instead merely teaches a house framing device that does not have application in the electrician field. On the other hand, the electrician’s measuring apparatus disclosed by present claims 1, 2, and 5 comprises a plurality of slots disposed on the elongated body at a plurality of pre-selected locations directly dependent upon the placement of electrical boxes, switches and outlets in accordance with selected standards or codes. Advantageously, the electrician’s measuring apparatus called for by applicant’s present claims 1, 2, and 5 readily guides the electrician in accurately and levelly positioning electrical boxes, switches and outlets at precise locations above regular and irregular floors or other surfaces (such as counters) in compliance with applicable requirements set forth by relevant construction standards and codes.

Moreover, the electrician’s measuring apparatus required by applicant’s present claims 1, 2, and 5 requires an elongated body having a length of 4 to about 6 feet appointed for

determining horizontal placement of the outlets from one another in accordance with a selected outlet to outlet standard or code. This length has particular importance and function in providing for accurate and precise horizontal placement of outlets in relation to one another. The accurate horizontal placement is achieved due to the length of the elongated body as required by applicant's present claims 1, 2, and 5, between 4 to about 6 feet, which represents the maximum allowable distance between outlet boxes as set forth in applicable standards. (Applicant's Specification on page 7, lines 9 – 11, and lines 20 – 22). Neither Gottlieb nor Jardine disclose, alone or in combination, a measuring device that can be utilized for both the vertical and horizontal placement of electrical boxes, switches, and outlets as specified by regulatory standards. In particular, neither Gottlieb nor Jardine disclose a measuring device having a length between 4 to about 6 feet representing the maximum allowable distance between outlet boxes so that the device can be utilized for not only the vertical placement of outlets, electrical boxes and switches, but also provide the horizontal placement of outlets from one another in conformance with regulatory standards. Accordingly, reconsideration of the rejection of claims 1, 2, and 5 under 35 USC §103(a) is respectfully requested.

For quite some time the art has struggled to devise an easy to use, integrated electrician's measurement apparatus that readily enables the user to mark and locate the position of electrical boxes, switches and outlets having varying sizes and shapes, at a selected distance from a floor or other surface, thereby meeting applicable code requirements. Yet, up until the time of applicant's invention no device capable of providing a user with an integrated measurement apparatus that marks and locates the position of electrical boxes, switches and outlets, at a selected distance from a floor (vertically) and from one another (horizontally) in conformance

with applicable code requirements has been proposed by any prior art works, including Gottlieb or Jardine. The prior art inventions and their attendant disadvantages are discussed at pages 1 – 3 of the specification.

In contrast to the teachings of the cited references, applicant has surprisingly discovered that combining together an elongated body having a length of 4 to about 6 feet appointed for determining horizontal placement of the outlets from one another, while at the same time providing a plurality of slots at a plurality of locations for the placement of electrical boxes, switches, and outlets in accordance with selected standards or codes, as required by applicant's claims 1, 2, and 5, results in an apparatus that increases the overall efficiency of construction projects. Specifically, the electrician's measuring apparatus called for by applicant's present claims 1, 2, and 5 readily guides the electrician so as to enable an accurate, level, vertical positioning of electrical boxes, switches and outlets at precise locations above regular and irregular floor or other surfaces (such as counters) in compliance with applicable requirements of standards and codes. In addition, the electrician's measuring apparatus called for by applicant's present claims 1, 2, and 5 readily guides the electrician to thereby enable an accurate, level horizontal positioning of electrical boxes, switches and outlets at precise locations from one another in compliance with applicable standards and codes. The horizontal placement is achieved due to the length of the elongated body, as required by applicant's present claims 1, 2, and 5, of 4 to about 6 feet, which represents the maximum allowable distance between outlet boxes as set forth in applicable standards. (Applicant's Specification on page 7, lines 9 – 11, and lines 20 – 22).

Accordingly, reconsideration of the rejection of claim 1 under 35 USC §103(a) as being

unpatentable over the combination of Gottlieb in view of Jardine is respectfully requested.

Claims 2 and 5 have been rejected by the Examiner under 35 U.S. C. §103(a) as being unpatentable over Gottlieb in view of Jardine. Claims 2 and 5 depend from currently amended claim 1, which is submitted to be patentable for the reasons set forth hereinabove. Inasmuch as claims 2 and 5 contain all the limitations of independent amended claim 1, it is submitted that these dependent claims are also patentable over Gottlieb in view of Jardine.

In addition, applicant's claim 5 further limits present claim 1 by requiring that the elongated body at the first end have a width of two to four inches, thereby having the plurality of slots as required by claim 1. However, Gottlieb teaches that it would not be practical to have slots transversely located on a measuring strip having a width of 4 inches, but instead teaches that where the measuring strip has a width of 4 inches side openings or notches (13, and 14) on opposite edges are to be utilized rather than slots. (Gottlieb, column 4, lines 18 – 38, particularly at lines 31 – 38; Shown in Gottlieb, figure 2). Significantly, Gottlieb teaches that when the device has a width of 4 inches it is "not [entirely] practicable to provide transverse slots corresponding to slots (5) and (6)" [of figure 1] and "therefore notches" are instead provided. (Gottlieb, column 4, lines 24 – 38). Inasmuch as applicant's claim 5 includes the slot required by claim 1, and further requires that the elongated body of the measuring apparatus have a width of 4 inches, the electricians measuring apparatus defined by claim 5 is not taught by Gottlieb and is in fact taught away from.

Accordingly, reconsideration of the rejection of claims 2 and 5 under 35 USC §103(a) as being unpatentable over the combination of Gottlieb in view of Jardine is respectfully requested.

CONCLUSION

In view of the amendments to claim 1, as well as claims 2 and 5, dependent thereon, and the remarks set forth above, it is submitted that the present application is in allowable condition. Reconsideration of the final rejection of present claims 1, 2, and 5, entry of this amendment, and allowance of the application are earnestly solicited.

Respectfully submitted,
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